

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

**MASTER SHORT FORM COMPLAINT
AND JURY TRIAL DEMAND**

PLAINTIFF

YVONNE GUILLORY

VS.

**3M COMPANY AND ARIZANT
HEALTHCARE, INC.**

1. Plaintiff, Yvonne Guillory, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, Yvonne Guillory, is a resident and citizen of the State of Louisiana and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the Western District of Louisiana.

5. Plaintiff brings this action *[check the applicable designation]*:

 X On behalf of herself;

FACTUAL ALLEGATIONS

6. On or about October 9, 2012, Plaintiff underwent surgery during which upon belief and information the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of her right knee replacement surgery at Jennings American Legion Hospital located at 1634 Elton Rd, Jennings, LA 70546 by Dr. Michael Holland.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The pathogen identified is unknown.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone multiple staged revision and irrigation and debridement procedures on or about November 26, 2012, April 6, 2013 and June 11, 2013 at Jennings American Legion Hospital located at 1634 Elton Rd, Jennings, LA 70546 by Dr. Michael Holland.

ALLEGATIONS AS TO INJURIES

9. (a) Plaintiff claims damages as a result of (check all that are applicable):

<u> X </u>	INJURY TO HERSELF/HIMSELF
<u> </u>	INJURY TO THE PERSON REPRESENTED
<u> </u>	WRONGFUL DEATH
<u> </u>	SURVIVORSHIP ACTION
<u> X </u>	ECONOMIC LOSS

10. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiffs.

DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

11. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

- ☒ FIRST CAUSE OF ACTION - NEGLIGENCE;
- ☒ SECOND CAUSE OF ACTION - STRICT LIABILITY;
- ☒ FAILURE TO WARN
- ☒ DEFECTIVE DESIGN AND MANUFACTURE
- ☒ THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;
- ☒ FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF LOUISIANA §§ 25-2-314, et seq;
- ☒ FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- ☒ SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- ☒ SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- ☒ EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;
- ☒ NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF LOUISIANA §§75-1.1., et seq;
- ☒ TENTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION;
- ☒ ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;

X TWELFTH CAUSE OF ACTION – FRAUDULENT
CONCEALMENT;

 THIRTEENTH CAUSE OF ACTION – LOSS OF
CONSORTIUM; and

 X FOURTEENTH CAUSE OF ACTION – UNJUST
ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action
under applicable state law:

Gross Negligence/Malice

PRAYER FOR RELIEF

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a
trial by jury as to all claims in Complaint so triable.

Dated: August 28, 2018

Respectfully submitted,

/s/ Alfred A. Olinde, Jr.

Alfred A. Olinde (LA #20061)

THE OLINDE FIRM, LLC

2 Sanctuary Blvd., Suite 205

Mandeville, LA 70471

Tel: (504) 587-1440

Fax: (985) 231-7581

Email: folinde@olindefirm.com